

FILED
UNDER
SEAL

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tracy Horstkotter,

Plaintiff

v.

Carolyn W. Colvin, Acting Commissioner of
Social Security,

Defendant

2:15-cv-02202-JAD-VCF

**Order Adopting Report and
Recommendation, Granting Horstkotter's
Motion for Reversal and/or Remand, and
Denying the Commissioner's Cross-motion
to Affirm**

ECF No. 14, 17, 20

Tracy Horstkotter brings this action to challenge an Administrative Law Judge's (ALJ's) denial of her 2014 application for Medicare benefits and supplemental security income. Magistrate Judge Ferenbach recommends that I grant Horstkotter's Motion for Reversal and/or Remand [ECF No. 14] and deny the Commissioner's Cross-motion to Affirm [ECF No. 17]. He reasons that "[t]he ALJ erred when he failed to consider Dr. Arnow's opinion" that Horstkotter should "'avoid even moderate exposure' to fumes, odors, dusts, gasses, poor ventilation, etc."¹ and when he "misapplied Social Security Ruling 85-15."² Objections to the report and recommendation were due October 7, 2016. None were filed.

"[N]o review is required of a magistrate judge's report and recommendation unless objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Neither party has filed an objection to the magistrate judge's report and recommendation or sought an extension of time to do so. Accordingly, and with good cause appearing,

It is hereby ORDERED that Magistrate Judge Ferenbach's Report and Recommendation [Doc. 20] is **ACCEPTED** and his findings and conclusions are adopted;

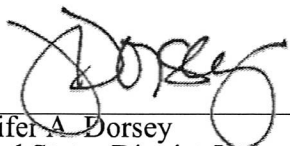
¹ ECF No. 20 at 2, 6 (citing ECF No. 13 at 72).

² *Id.* at 6.

1 It is further ORDERED that Horstkotter's Motion for Reversal and/or Remand [ECF No.
2 14] is **GRANTED**, the Commissioner's Cross-motion to Affirm [ECF No. 17] is **DENIED**, and
3 this matter is remanded to the Commissioner for further proceedings consistent with the
4 Report and Recommendation.

5 The Clerk of Court is instructed to CLOSE THIS CASE.

6 DATED: October 18, 2016

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9 Jennifer A. Dorsey
10 United States District Judge
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